

**ZB# 83-32**

**Eliz Pierotti**

**4-2-1**

Prelim.

9/12/83

(OCPD ~~notified~~ notified)

9/13/83 ✓

Public Hearing:

Sept. 26, 1983

Area/Use/Sign Variances

~~Check \$5000~~

Granted

# General Receipt

5410

TOWN OF NEW WINDSOR

555 Union Avenue  
New Windsor, N. Y. 12550

Oct. 5 1983

Received of

Elizabeth Pierotti

\$ 50.00

Fifty and 00/100

DOLLARS

For

3 B A applications fee 83-32

DISTRIBUTION:

FUND	CODE	AMOUNT
<u>\$50.00</u>	<u>Check</u>	
<u># 776</u>		

By

Pauline G. Townsend <sup>E.C.</sup>

Town Clerk

Title

Williamson Law Book Co., Rochester, N. Y. 14609

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE OR SPECIAL PERMIT

# 83-32.

Date: 8/25/83.

I. ✓ Applicant Information:

- (a) Fred Colin 500 Old Country Rd., Garden City, N.Y. 11530 516-741-  
(Name, address and phone of Applicant) (Owner) 1717
- (b) Elizabeth Pierotti, Meadowbrook Lane, New Windsor, 914 561-5030  
(Name, address and phone of purchaser or lessee)
- (c) Alfred Cavalari, Box 276, Vails Gate, N.Y. 914 561-5969  
(Name, address and phone of attorney)
- (d) All-Pan Realty, Box 506, Vails Gate, N.Y. 914 562-5330  
(Name, address and phone of broker)

II. Application type:

- ☒ Use Variance ☒ Sign Variance
- ☒ Area Variance ☐ Special Permit

III. ✓ Property Information:

- (a) P.I. SE. Corner Union Ave., Temple Hill Rd. 4/2/1 214-195-214 Tri  
(Zone) (Address) (S B L) (Lot size) gle.
- (b) What other zones lie within 500 ft.? Residential/P.I./Non Conformi
- (c) Is a pending sale or lease subject to ZBA approval of this Retail application? No
- (d) When was property purchased by present owner? Under Contract
- (e) Has property been subdivided previously? No When? \_\_\_\_\_
- (f) Has property been subject of variance or special permit previously? Yes When? 1981. Retail use approved in 1981.
- (g) Has an Order to Remedy Violation been issued against the property by the Zoning Inspector? Yes
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: \_\_\_\_\_

No

IV. ✓ Use Variance:

- (a) Use Variance requested from New Windsor Zoning Local Law, Section 48 10, Table of Use Regs., Col. A, to allow:  
(Describe proposal) Proposal is to upgrade zoning to Retail and a proposed addition to existing building.



- (b)✓ The legal standard for a "Use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

Building expansion would be impossible without a variance for the front lot line. Also this proposed retail use upgrades the zoning and enhances the surrounding neighborhood. Existing building has been vacant for approx. 2 yrs.

V.✓ Area variance:

- (a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Bulk Regs., Col. 6.

Requirements	Proposed or Available	Variance Request
Min. Lot Area		
Min. Lot Width		
Reqd. Front Yd.		
Reqd. Side Yd. <u>50 /</u>	<u>38 /</u>	<u>12 /</u>
Reqd. Rear Yd.		
Reqd. Street Frontage*		
Max. Bldg. Hgt.		
Min. Floor Area*		
Dev. Coverage* <u>%</u>	<u>%</u>	<u>%</u>
Floor Area Ratio**		

\* Residential Districts only

\*\* Non-residential districts only

- ✓ (b) The legal standard for an "AREA" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also, set forth any efforts you have made to alleviate the difficulty other than this application.

Variance is needed because the contour of the lot, being a triangle, does not allow for any addition to make it suitable for retail use.

VI.✓ Sign Variance:

- (a) Variance requested from New Windsor Zoning Local Law, Section 48-9, Table of Use Regs., Col. D.

	Requirements	Proposed or Available	Variance Request
Sign 1		<u>2 x 16</u>	
Sign 2 -2 @		<u>2½ x 4</u>	
Sign 3		<u>4 x 6</u>	
Sign 4			
Sign 5			
Total	<u>sq.ft.</u>	<u>76 sq.ft.</u>	<u>sq.ft.</u>

- (b) ✓ Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or oversize signs.

Sign #1 - Sign on building front. - 2 x 16

Sign #2 - One small building sign on side of building - 2½x4

#3 - " " " " - 2½x4

Sign #4 - Sign on ground on front portion of property. - 4x6

- (c) ✓ What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

76 sq. ft.

VII. Special Permit:

- (a) Special Permit requested under New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.
- (b) Describe in detail the use and structures proposed for the special permit.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VIII. ✓ Additional comments:

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning Local Law is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

The intention is to upgrade the lot with any necessary paving, shrubbery, and fencing.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IX. ✓ Attachments required:

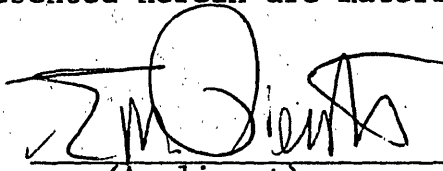
- x Copy of letter of referral from Bldg./Zoning Inspector.  
   Copy of tax map showing adjacent properties.  
x Copy of contract of sale, lease or franchise agreement.  
x Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot.  
-x Copy(ies) of sign(s) with dimensions.  
x Check in the amount of \$50.00 payable to TOWN OF NEW WINDSOR.  
x Photos of existing premises which show all present signs and landscaping.

X. AFFIDAVIT

Date September 12, 1983

STATE OF NEW YORK )  
COUNTY OF ORANGE ) SS.:

The undersigned Applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his knowledge or to the best of his information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance or permit granted if the conditions or situation presented herein are materially changed.

  
(Applicant)

Sworn to before me this

125th day of August, 1983.

*Patricia Delio*

PATRICIA DELIO  
Notary Public, State of New York  
Appointed in Orange County  
My Commission expires Mar. 30, 1985

XI. ZBA Action:

- (a) Public Hearing date \_\_\_\_\_.
- (b) Variance is \_\_\_\_\_.
- Special Permit is \_\_\_\_\_.
- (c) Conditions and safeguards: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

A FORMAL DECISION WILL FOLLOW  
WHICH WILL BE ADOPTED BY  
RESOLUTION OF ZONING BOARD OF APPEALS.

NEW WINDSOR ZONING BOARD OF APPEALS  
Regular Session  
September 12, 1983

MEMBERS PRESENT: Richard Fenwick, Chairman  
Joseph Skopin  
Jack Babcock  
James Nugent  
John Pagano

MEMBERS ABSENT: Vincent Bivona  
Dan Konkol

ALSO PRESENT: Andrew S. Krieger, Esq.  
Attorney for ZBA  
Patricia Delio, Secretary

The September 12, 1983rd session of the Zoning Board of Appeals was called to order at 7:30 p.m. Secretary called the roll.

Motion followed by Joseph Skopin, seconded by James Nugent to accept the minutes of the August 8, 1983 meeting as written. Motion carried 4-0. (Jack Babcock, Joseph Skopin, James Nugent and Richard Fenwick, all present, voting aye.)

Correspondence Received and Filed:

Speiser-Carlin - Received and filed letter dated 8/19/83 from Levinson, Reineke & Ornstein, withdrawing request for agenda space.

\* \* \* \* \*

PRELIMINARY MEETING:

VGR ASSOCIATES - Mulberry Pizza. Request for sign variance in conjunction with Notice of Disapproval dated August 10, 1983 from Building/Zoning Officer. Applicants did not show.

\* \* \* \* \*

PRELIMINARY MEETING:

PIEROTTI, ELIZABETH M. (MUSIC BOX) - Request for operation of retail business (Music Box) to be relocated to intersection of Temple Hill Rd. and Union Avenue at old Texaco gas station. Variances required: Use, 2-10 ft. front yard variances and 76 sq. ft. sign variance. Mrs. Pierotti presented her plans for renovation of the existing building: One bay will be retained for automobile installations; gasoline tanks will be disabled; existing sign pole will be removed; access to bay will be through side of building on Union Avenue.

September 12, 1983

Board requested that Ms. Pierotti modify plan to show the access to bay from side of building.

Motion followed by Jack Babcock, seconded by James Nugent to schedule a public hearing on September 26, 1983. Roll call - 5-0. Motion carried.

\* \* \* \* \*

PRELIMINARY MEETING:

SCHOONMAKER HOMES, INC. - Mr. Ray Kinol appeared before the ZBA representing Schoonmaker Homes, Inc. with a request for 1.9 ft. front yard variance for Lot #55 on 23 Creamery Drive in the Butter Hill Subdivision. Notice of Disapproval was issued by Building Inspector on 8/23/83. Mr. Kinol presented the site plan on the one-family dwelling which is already in existence.

After discussion, motion was made by James Nugent, seconded by Joseph Skopin to schedule a public hearing upon return of the completed paperwork. Motion carried 5-0.

\* \* \* \* \*

PUBLIC HEARING on Application of LBL ASSOCIATES and LESTER CLARK (Silver Stream Mobile Home Park) for a use variance and special permit in a C (Design Shopping) zone for 20 unit mobile home park on 11.8 acres of land on Route 94 in the Town of New Windsor.

Daniel J. Bloom, Esq. of Bloom & Bloom, was present representing the owner/contract vendee and presented the site plan which was laid out by McGoe, Hauser & Grevas, consulting engineers.

Received and filed:

Affidavit of Service by Mail with 31 return receipts;  
List from Assessor's Office containing 34  
names and addresses of adjacent property  
owners;  
Applications; Variance application fee of \$50.00.

Correspondence received and filed:

Inter-Office memo dated 9/12/83 from Planning Board  
which objected to granting of application;

Memo dated 9/12/83 from Building Inspector Kennedy  
which objected to granting of application;

There was one spectator in attendance at public hearing and he did not object to the application before the Board.

Mr. Bloom called the following attendees as part of his presentation before the Board:

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR

-----X  
In the Matter of the Application of

ELIZABETH M. PIEROTTI,

DECISION GRANTING  
USE AND AREA VARIANCES  
AND SIGN VARIANCE

# 83-32 .

-----X  
WHEREAS, ELIZABETH M. PIEROTTI of MUSIC BOX, Windsor  
Highway, New Windsor, N. Y., has made application before the  
Zoning Board of Appeals for use, area & sign variance (s) for the purpose  
known as Music Box presently located on Windsor Highway;  
of: construction and renovation of former gas station to house operation/;  
and

WHEREAS, a public hearing was held on the 26th day of  
September, 1983 at the Town Hall, 555 Union Avenue, New Windsor,  
New York; and

WHEREAS, applicant appeared in behalf of herself  
; and

WHEREAS, the application was unopposed ; and

WHEREAS, the Zoning Board of Appeals of the Town of New  
Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents  
and businesses as prescribed by law and published in The Sentinel, also  
as required by law.

2. The evidence shows: that existing former gasoline station  
has been vacant for approximately 2 years.

3. The evidence shows: that variance for area is needed  
because the contour of the lot (triangle corner lot) does not allow for  
any addition to make it suitable for retail use.

4. The evidence shows: that the proposed renovation and addition will enhance the surrounding neighborhood.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of law in this matter:

1. The evidence indicates that the aforesaid circumstances or conditions are such that the strict application of the provisions of the local law would deprive the applicant of the reasonable use of such land or building.

2. The evidence indicates that the plight of the applicant is due to unique circumstances and not to general conditions suffered by other persons within the same zone.

3. The evidence shows that the applicant will encounter practical difficulty if the area variance requested is not granted.

4. The proposed variance will not result in substantial detriment to adjoining properties or change the character of the neighborhood.

NOW, THEREFORE, BE IT

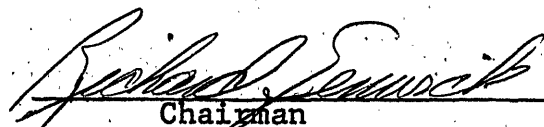
RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor grants a use variance, 2-10 ft. front yard variances and 76 square ft. sign variance in accordance with plans submitted at the public hearing with restrictions listed below\*.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant, or his attorney.

Dated: October 24, 1983.

\* Hours of operation:  
Weekdays - 10 a.m.-8 p.m.  
Saturdays- 10 a.m.-5 p.m.  
No Sunday hours.

  
Chairman



# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK  
(914) 565-8550

September 27, 1983

Elizabeth M. Pierotti  
R. D. No. 2  
Meadowbrook Lane  
New Windsor, N. Y. 12550

RE: APPLICATION FOR VARIANCES - MUSIC BOX  
#83-32

Dear Betty:

This is to confirm that your above application for variances before the Zoning Board of Appeals was granted at the September 26, 1983 public hearing.

A formal decision will be drafted and acted upon at an upcoming meeting of the Board. A copy will be forwarded to you.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Delio".

PATRICIA DELIO, Secretary  
Zoning Board of Appeals

/pd

cc: Town Planning Board  
Town Building/Zoning Officer Kennedy





Louis Heimbach  
County Executive

**Department of Planning  
& Economic Development**

124 Main Street  
Goshen, New York 10924  
(914) 294-5151

Peter Garrison, Commissioner  
Richard S. DeTurk, Deputy Commissioner

September 21, 1983

Mr. Richard Fenwick, Chairman  
New Windsor Town Zoning Board of Appeals  
555 Union Avenue  
New Windsor, New York 12550

Re: Variance - Pierotti  
Union Avenue  
Our File No. NWT 9-83-M

Dear Mr. Fenwick:

Our office has reviewed the above application submitted to us in accordance with the provisions of Section 239, l and m, Article 12-B of the General Municipal Law of the State of New York.

We have no objection to the request and hereby return the matter for final local determination.

Very truly yours,

Peter Garrison, Commissioner of  
Planning & Economic Development

PG:mj  
Enclosure

Reviewed by:

Joel Shaw  
Senior Planner

**RECEIVED**  
ATTORNEY'S OFFICE/26A  
**TOWN OF NEW WINDSOR**

SEP 26 1983

BY:

INTER-OFFICE CORRESPONDENCE

TO: TOWN PLANNING BOARD  
FROM: ZONING BOARD OF APPEALS  
SUBJECT: PUBLIC HEARINGS - Date: September 26, 1983  
DATE: September 13, 1983

Please be advised that the following is a schedule of public hearings to be heard before the Zoning Board of Appeals on the above date:

PIEROTTI, ELIZABETH (Music Box)  
SCHOONMAKER HOMES, INC.  
CALVET TOOL RENTAL, INC.

I have attached hereto copies of the pertinent application(s) together with public hearing notice(s).

Pat

/pd

Attachments

cc: Town Building/Zoning Officer Kennedy

PUBLIC NOTICE OF HEARING BEFORE  
ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals  
of the TOWN OF NEW WINDSOR, New York will hold a  
Public Hearing pursuant to Section 48-34A of the  
Zoning Ordinance on the following proposition:

Appeal No. 32

Request of E.M. Pierotti

for a VARIANCE ~~SPECIAL PERMIT~~ of

the regulations of the Zoning Ordinance to

permit Operation of Retail Business; Addition in front of  
building; Front yard variances 12', and sign variance.

being a VARIANCE ~~SPECIAL PERMIT~~ of

Section 48-9, 48-10 and 48-12, Table of Use Regs.-  
Cols. A & D and Table of Bulk Regs.-Col. 6  
for property situated as follows:

Southeast Corner of Union Ave. and Temple Hill Rd.

(former Texaco gas sta.), New Windsor, N. Y.

SAID HEARING will take place on the \_\_\_\_ day of  
September, 19 83, at the New Windsor Town Hall,  
555 Union Avenue, New Windsor, N. Y. beginning at  
7:30 o'clock P. M.

RICHARD FENWICK  
Chairman

TOWN OF NEW WINDSOR  
ORANGE COUNTY, N. Y.  
OFFICE OF ZONING - BUILDING INSPECTOR

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

File No. ....

Date August 16, 1983

To

Colin, Fred / Elizabeth M. Pierotti  
500 Old Country Rd  
Garden City, N.Y. 11530

(Music Box)  
561-5030  
Meadowbrook Lane RD 2  
New Windsor -

PLEASE TAKE NOTICE that your application dated August 16, 1983

for permit to Operate Retail business

at the premises located at South East Corner of Union Ave &

Temple Hill Rd. Section 4, Block 2 Lot 1

is returned herewith and disapproved on the following grounds:

- A) Property Zoned P.T. - Variance for non conforming Use.
- B) Existing non conforming lot - Addition wanted in front of Bldg.  
creating 40' front yards - Min Rqd P.T. 50' Front yard.  
2 - 10' front yard variances need.

Note: Existing Front yards  
47' (non conforming)

[Signature]  
Building Inspector

43-32.



1763

# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK

August 26, 1983

Ms. Elizabeth Pierotti  
P.O. Box 4156  
New Windsor, N.Y.

RE: 4-2-1

Dear Ms. Pierotti:

According to my records, the attached list of property owners are within five hundred (500) feet of the above mentioned property.

The charge for this service is \$30.00. Please remit same to the Town Clerk, Town of New Windsor.

Very truly yours,

PAULA SARVIS  
ASSESSOR  
Town of New Windsor



1763

# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK

20

J & H Smith Light Corp.  
39 Wisner Ave  
Newburgh NY 12550

Mazza Theresa  
c/o Herbst & Rashbaum  
P.O. Box 7002  
Newburgh NY 12550

Licari Rita  
478 Union Ave  
New Windsor NY 12550

Clegg John C & Robert S  
4 Innis Ave  
Newburgh NY 12550

Newburgh Bananas Inc  
111 Dickson Ave  
Newburgh NY 12550

Fischer Major Susan & Mark J  
c/o Major S Fischer Moyer  
7521 Amesbury Court  
Alexandria Virginia 22310

Automotive Brake Co of Newburgh Inc  
300 Temple Hill Road  
New Windsor NY 12550

Orange County Industrial Development  
Agency  
c/o Y W C A  
565 Union Ave  
New Windsor NY 12550

Ellwhy Realty Corp  
c/o Dexion Rlty Corp  
c/o Interlake Inc  
2015 Spring Road  
Oak Brook IL 06521

Icosquip Inc  
4 West 58th St  
New York NY 10019

Infante Madeline  
602 Union Ave  
New Windsor NY 12550

Casalinuovo Dominick & Rose  
606 Union Ave  
New Windsor NY 12550

Mc Dougall Glenn A  
614 Union Ave  
New Windsor NY 12550

Simpson Harry M & Dorothy  
Box 941  
Newburgh NY 12550

Lucas Edward & Rachel  
618 Union Ave  
New Windsor NY 12550

Grismer Eleanor R  
Ronsini Angela Eleanor Richard Jr &  
Michael  
Box 2013  
Newburgh NY 12550

Ronsini Mario & Ruth  
630 Union Ave  
New Windsor NY 12550

Ronsini Nicholas  
42 Carter St  
Newburgh NY 12550

Ronsini C Jessie & Helen  
324 Temple Hill Rd RD2  
New Windsor NY 12550



1763

# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK

Angeloni Americo & Rose  
326 Temple Hill Rd RD2  
New Windsor NY 12550

9/26/83 - Public Hearing: Pierotti, Eliz. M. (Music Box)

Name:

Emilia Pierotti

Address:

16 Broad St.



**NOTE: FIRE LOSSES.** This form of contract contains no express provision as to risk of loss by fire or other casualty before delivery of the deed. Unless express provision is made, the provisions of Section 5-1311 of the General Obligations Law will apply. This section also places risk of loss upon purchaser if title or possession is transferred prior to closing.

THIS AGREEMENT, made the 15<sup>th</sup> day of August, nineteen hundred and eighty-three BETWEEN FRED COLIN, as Trustee under Indenture of Trust dated May 1, 1968 for the benefit of Stephen Colin, having its principal office and place of business located at c/o Fred Colin, 500 Old Country Road, Garden City, New York 11530,

hereinafter described as the seller, and ELIZABETH M. PIEROTTI, an individual residing at R.D. #2 Meadowbrook Lane, Cornwall, New York 12518,

hereinafter described as the purchaser,

**WITNESSETH,** that the seller agrees to sell and convey, and the purchaser agrees to purchase, all that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, Orange County, State of New York, more particularly bounded and described as follows:

BEGINNING at the point formed by the intersection of the southerly side of Union Avenue and the easterly side of Temple Hill Road, said point of beginning being the northwesterly corner of lands of Morris M. Levinson, Thomas M. Chadwick, Edward G. Kolb, George R. Krom Jr. and Donald T. Krom, fronting on the East side of Temple Hill Road;

thence running from said point along the southerly side of Union Avenue the following courses and distances: South 87 degrees 55'30" East 89.48 feet and South 83 degrees 48'30" East 124.52 feet;

running thence through other lands of Morris M. Levinson, Thomas M. Chadwick, Edward G. Kolb, George R. Krom Jr. and Donald T. Krom, South 31 degrees 40'20" West a distance of 195.83 feet to the northerly line of Temple Hill Road at a point thereon distant as measured along same, South 31 degrees 03' East 214 feet from the southerly side of Union Avenue;

running thence along the northeasterly side of Temple Hill Road, North 31 degrees 03' West a distance of 214.00 feet to the point or place of Beginning.

TAX MAP  
DESIGNATION

Dist.

Lot(s):

BETWEEN FRED COLIN, as Trustee under Indenture of Trust dated May 1, 1968 for the benefit of Stephen Colin, having its principal office and place of business located at c/o Fred Colin, 500 Old Country Road, Garden City, New York 11530,

hereinafter described as the seller, and ELIZABETH M. PIEROTTI, an individual residing at R.D. #2 Meadowbrook Lane, Cornwall, New York 12518,

hereinafter described as the purchaser,

**WITNESSETH**, that the seller agrees to sell and convey, and the purchaser agrees to purchase, all that certain plot, piece or parcel of land, with the buildings ~~and improvements~~ thereon erected, situate, lying and being in the Town of New Windsor, Orange County, State of New York, more particularly bounded and described as follows:

BEGINNING at the point formed by the intersection of the southerly side of Union Avenue and the easterly side of Temple Hill Road, said point of beginning being the northwesterly corner of lands of Morris M. Levinson, Thomas M. Chadwick, Edward G. Kolb, George R. Krom Jr. and Donald T. Krom, fronting on the East side of Temple Hill Road;

thence running from said point along the southerly side of Union Avenue the following courses and distances: South 87 degrees 55'30" East 89.48 feet and South 83 degrees 48'30" East 124.52 feet;

running thence through other lands of Morris M. Levinson, Thomas M. Chadwick, Edward G. Kolb, George R. Krom Jr. and Donald T. Krom, South 31 degrees 40'20" West a distance of 195.83 feet to the northerly line of Temple Hill Road at a point thereon distant as measured along same, South 31 degrees 03' East 214 feet from the southerly side of Union Avenue;

running thence along the northeasterly side of Temple Hill Road, North 31 degrees 03' West a distance of 214.00 feet to the point or place of Beginning.

TAX MAP  
DESIGNATION

Dist.

ac.

3lk.

Lot(s):

1. This sale includes all right, title and interest, if any, of the seller in and to any land lying in the bed of any street, road or avenue opened or proposed, in front of or adjoining said premises, to the center line thereof, and all right, title and interest of the seller in and to any award made or to be made in lieu thereof and in and to any unpaid award for damage to said premises by reason of change of grade of any street; and the seller will execute and deliver to the purchaser, on closing of title, or thereafter, on demand, all proper instruments for the conveyance of such title and the assignment and collection of any such award.

2. The price is Eighty-seven Thousand and 00/100 (\$87,000.00) ----- Dollars, payable as follows:

Ten Thousand and 00/100 (\$10,000.00) ----- Dollars,

on the signing of this contract, by check subject to collection, the receipt of which is hereby acknowledged;

Seventeen Thousand and 00/100 (\$17,000.00) ----- Dollars,

in cash or good certified check to the order of the seller on the delivery of the deed as hereinafter provided;

Sixty Thousand and 00/100 (\$60,000.00) ----- Dollars,

by taking title subject to a ~~mortgage now a lien on said premises in that amount, bearing interest at the~~  
rate of \_\_\_\_\_ per cent per annum, the principal being due and payable

Dollars,

by the purchaser or assigns executing, acknowledging and delivering to the seller a bond or, at the option of the seller, a note secured by a purchase money first mortgage on the above premises, in that amount, payable to seller, its successors or assigns, with a maturity of five (5) years

together with interest at the rate of 14% per cent  
per annum payable in monthly installments of principal and interest each in the amount of \$710.93, to be applied first to the payment of interest and then to a reduction of principal.

3. The note and mortgage shall be drawn by the attorney for seller at the expense of purchaser, who shall also pay the mortgage recording tax and recording fees. The note and mortgage must, in all respects, be acceptable to seller and each of the same shall be drawn on the New York Board of Title Underwriters form with the additional provisions in Exhibit A and Exhibit A-1 to be respectively included in the note and mortgage. The fee for the preparation of the note and mortgage shall not be more than \$250.00.

4. ~~If such purchase money mortgage is to be a subordinate mortgage on the premises it shall provide that it shall be subject and subordinate to the lien of the existing mortgage of \$ \_\_\_\_\_, any extensions thereof and to any mortgage or consolidated mortgage which may be placed on the premises in lieu thereof, and to any extensions thereof provided (a) that the interest rate thereof shall not be greater than \_\_\_\_\_ per cent per annum and (b) that, if the principal amount thereof shall exceed the amount of principal owing and unpaid on said existing mortgage at the time of placing such new mortgage or consolidated mortgage, the excess be paid to the holder of such purchase money mortgage in reduction of the principal thereof. Such purchase money mortgage shall also provide that such payment to the holder thereof shall not alter or affect the regular installments, if any, of principal payable thereunder and shall further provide that the holder thereof will, on demand and without charge therefor, execute, acknowledge and deliver any agreement or agreements further to effectuate such subordination.~~

5. ~~If there be a mortgage on the premises the seller agrees to deliver to the purchaser at the time of delivery of the deed a proper certificate executed and acknowledged by the holder of such mortgage and in form for recording, certifying as to the amount of the unpaid principal and interest thereon, date of maturity thereof and rate of interest thereon, and the seller shall pay the fees for recording such certificate. Should the mortgagee be a bank or other institution as defined in Section 274-a, Real Property Law, the mortgagee may, in lieu of the said certificate, furnish a letter signed by a duly authorized officer, or employee, or agent, containing the information required to be set forth in said certificate. Seller represents that such mortgage will not be in default at or as a result of the delivery of the deed hereunder and that neither said mortgage, nor any modification thereof contains any provision to accelerate payment, or to change any of the other terms or provisions thereof by reason of the delivery of the deed hereunder.~~

6. Said premises are sold and are to be conveyed subject to:

a. Zoning regulations and ordinances of the city, town or village in which the premises lie which are not violated by existing structures.

b. Consents by the seller or any former owner of premises for the erection of any structure or structures on, under or above any street or streets on which said premises may abut.

c. Encroachments of stoops, areas, cellar steps, trim and cornices, if any, upon any street or highway.

d. Such state of facts disclosed by a survey dated June 15, 1966 made by Chumard & Erikson and any state of facts an update thereto and/or a new survey and/or inspection of the premises would disclose, provided such update would not (i) render title unmortgageable to a lending institution making first mortgage loans on properties of this type and (ii) prevent purchaser from using the existing structure and a proposed 750 square foot addition thereto (to be erected in front of the present front portion of such existing structure) as a retail store.

e. Building violations and/or notes or notices of the same, if any.

f. Grant of pole right of way in Liber 1427 cp 350.

g. Utility easement in Liber 1734 cp 882.

Dollars.

Dollars,

together with interest at the rate of 14% per cent

(a) Rents as and when collected. (b) Interest on mortgages. (c) Premiums on existing transferable insurance policies, payable if they are existing prior to the closing. (d) Taxes and sewer rents, if any, on the basis of the fiscal year for

Omit  
Clause 8 if  
the property  
is not in  
the City of  
New York.  
Clause 9 is  
usually  
omitted if  
the property  
is not in  
the City of  
New York.

RIDER TO CONTRACT OF SALE  
DATED AUGUST , 1983 BETWEEN  
FRED COLIN, AS TRUSTEE  
UNDER INDENTURE OF TRUST DATED MAY 1, 1968  
FOR THE BENEFIT OF STEPHEN COLIN  
AND  
ELIZABETH M. PIEROTTI

1. The parties agree that the deed to be delivered to purchaser pursuant to the terms of this contract may omit any reference to the fact that purchaser is accepting title to the premises subject to the items set forth in this contract. In such event the provisions hereof relating to the obligation of purchaser to accept title so subject to such matters shall survive the closing.

2. Purchaser represents that it has inspected and examined the premises to be conveyed hereunder and is thoroughly familiar with the condition and value thereof. Purchaser is purchasing the premises and accepting the conveyance thereof in an "as is" condition as of the date of closing. Seller makes no representation with respect to the zoning of the premises or condition or fitness for use of the building or improvements located upon the premises.

3. If purchaser shall be in default, breach or violation hereunder, seller may, in recognition of the substantial detriment, damage and expense which purchaser acknowledges seller will suffer in the event of purchaser's default, breach or violation and the difficulty of computing such detriment, damage and expense (which purchaser acknowledges will be intricate, complicated to compute, and difficult to prove), retain all monies required to be paid as a downpayment hereunder, as liquidated damages with respect to such default, breach or violation; and the same shall be the exclusive property of the seller and upon purchaser acknowledging seller's right to retain the aforementioned sum, together with interest actually earned thereon, purchaser's

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4. Purchaser represents, covenants and warrants to seller that purchaser dealt with no broker in connection with

this transaction other than Emilio Panella, d/b/a All Pan Realty, and purchaser indemnifies and agrees to hold seller harmless from and against any (i) claims from any broker, other than Emilio Panella, alleging that purchaser dealt with such broker and (ii) all losses, costs and expenses suffered, incurred or expended by seller arising out of, or resulting from, or occasioned by, a breach of this representation by purchaser. Seller agrees that it was not introduced to purchaser other than by Emilio Panella, d/b/a All Pan Realty. This representation shall survive closing.

5. Purchaser agrees that it will not record this agreement. Any recording of this agreement or any assignment or pledge thereof without seller's consent may, at seller's option, be deemed to be a default hereunder on the part of purchaser.

6. The acceptance of a deed by purchaser shall be deemed to be a full performance of seller of, and shall discharge seller from all of seller's liabilities and obligations hereunder, and thereafter seller shall have no other liability or obligation to purchaser, to any subsequent owner of the premises hereby being conveyed or any other person, firm, corporation or other public body with respect to said premises. This provision shall survive closing.

7. Seller shall not be required to bring any action or proceeding, take any steps, or otherwise incur any expense to remove or cure any encumbrances (or other objections to Seller's title) or to render title to the real property to be conveyed hereunder marketable, except, however, if by reason of failure to pay franchise tax, an encumbrance exists or if any other encumbrance exists by reason of the creation of a lien through the voluntary and knowing act of Seller creating or granting such lien, then to the extent that the cash proceeds receivable by Seller at the closing of title shall be

from and against any (i) claims from any broker, other than Emilio Panella, alleging that purchaser dealt with such broker and (ii) all losses, costs and expenses suffered, incurred or expended by seller arising out of, or resulting from, or occasioned by, a breach of this representation by purchaser. Seller agrees that it was not introduced to purchaser other than by Emilio Panella, d/b/a All Pan Realty. This representation shall survive closing.

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unrelated to either of the parties comprising Seller of any instrument or documents that may constitute or evidence the creation of a lien, including but not limited to judgments, mechanic's liens, lis pendens or equivalent, shall not be deemed a voluntary creation of an encumbrance even though the acts which may have given rise to the assertion of the lien rights might have been voluntary in nature. For the purposes hereof, "voluntary" shall mean a knowing and intentional creation and imposition of the specific lien or encumbrance affecting the real property with full knowledge that the lien or encumbrance is being effected. In the event seller elects to cancel this Contract as herein provided, then the down payment shall be refunded to purchaser and upon such refund being made, neither party hereunder shall have any further obligation to the other.

8. Purchaser may not assign all or any of its right or interest herein without the consent of Seller, which consent may be withheld with or without reason or justification.

9. Purchaser recognizes and acknowledges that the premises to be conveyed hereunder are presently being leased by Texaco, Inc. and that Seller is attempting to negotiate a cancellation of that lease with Texaco, Inc. In the event that Seller is unable to effect such cancellation on terms completely acceptable to Seller or if the operable terms of such cancellation agreement do not become effective, then seller, at its option, may cancel this Contract by notifying purchaser of the operable event and upon return of the down payment to purchaser, neither party hereunder shall have any further rights or obligations to the other. Purchaser agrees for a period, not in excess of thirty (30) days from the delivery of the deed, that Texaco, Inc., its agents and contractors, and its and their employees, may enter unto the premises for the purpose of (i) removing the existing underground tanks and other appurtenances that Texaco shall elect to remove or (ii) filling said tanks with

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jurisdiction over the premises. Seller hereby agrees that in the event Texaco, Inc. fails to perform in accordance with either of the foregoing clauses (i) or (ii), then upon written demand of purchaser, and within fifteen (15) days of seller's receipt of such demand, seller shall perform one of the performances contained in clauses (i) or (ii); it being understood and agreed that seller shall have the option of which action to perform. In addition, if within the foregoing thirty (30) day period, Texaco, Inc. shall fail to remove the removable portions of the lifts presently located on the Subject Premises, then upon fifteen (15) days of purchaser's receipt of such demand therefor, seller shall cause the removal of the same. Seller's obligations herein contained shall survive the closing hereunder.

10. At the closing, purchaser shall deposit the sum of Ten Thousand and 00/100 (\$10,000.00) Dollars with her attorney, to be held in escrow by such attorney until he receives a written instruction letter from seller directing that such deposit be paid to (i) seller in the event purchaser shall be in default under the purchase money note and/or mortgage to be delivered by purchaser at the closing as herein provided (and purchaser agrees to apply the same first toward payment of any interest then outstanding and then to a reduction of the principal indebtedness) or (ii) purchaser in the event that purchaser shall have fully complied with covenant number 46 of the foregoing Mortgage. In the event that the escrow holder shall not receive any such instruction by a date that is fourteen (14) months subsequent to the closing of title hereunder, then such holder may pay the deposit over to purchaser. The escrow agreement will further provide that (i) if the total certifiable cost of such construction exceeds Ten Thousand and 00/100 (\$10,000.00) Dollars and (ii) Mortgagee is furnished with evidence to that effect, then, provided that purchaser-mortgagor has actually paid on account of the costs, as certified by purchaser, of such construction at least an amount equivalent to the difference

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time, as the work progresses, release from the escrow that portion of the cost of such work that exceeds the base number.

In the event, and to the extent, that the certifiable cost of such construction is less than Ten Thousand and 00/100 (\$10,000.00) Dollars, then the difference between the amount of Ten Thousand and 00/100 (\$10,000.00) Dollars and the certifiable cost of such construction, shall be paid over by the holder of the escrow to seller-mortgagee for application to payment of the principal balance secured by the Purchase Money Mortgage. The escrow holder shall not disburse the monies except as provided above and, at the closing, such holder shall enter into a written agreement, to be prepared by seller's attorney and containing such terms as seller may require, confirming the escrow arrangement and not inconsistent with the terms contained in this Contract.

11. Notwithstanding anything contained in this Contract, purchaser shall not reject title to the Subject Premises or refuse to accept tender of delivery of the deed thereto due to the existence of any encroachment or driveway across any portion of the Subject Premises or because of any right of a third party to the use or enjoyment of any such encroachment or driveway; it being understood and agreed that purchaser's inability to reject title as a result of the foregoing items shall not constitute, or be deemed, acceptance by purchaser of any third party's rights in or to such encroachment or driveway. Seller hereby represents that it has not granted any written driveway easement in favor of any adjoining property owner.

12. Purchaser shall have the right to adjourn the closing to a date no later than November 1, 1983 provided it gives written notice of such election to seller no later than three (3) business days prior to October 1, 1983; it being understood and agreed that in the event purchaser elects to adjourn the closing as herein provided, then the purchase price and the cash portion

such construction is less than Ten Thousand and 00/100 (\$10,000.00) Dollars, then the difference between the amount of Ten Thousand and 00/100 (\$10,000.00) Dollars and the certifiable cost of such construction, shall be paid over by the holder of the escrow to seller-mortgagee for application to payment of the principal balance secured by the Purchase Money Mortgage. The escrow holder shall not disburse the monies except as provided above and, at the closing, such holder shall enter into a written agreement, to be prepared by seller's attorney and containing such terms as seller may require, confirming the escrow arrangement and not inconsistent with the terms contained in this Contract.

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12. Purchaser shall have the right to adjourn the closing to a date no later than November 1, 1983 provided it gives written notice of such election to seller no later than three (3) business days prior to October 1, 1983; it being understood and agreed that in the event purchaser elects to adjourn the closing as herein provided, then the purchase price and the cash portion thereof shall each be increased by the sum of Five Hundred and 00/100 (\$500.00) Dollars for each thirty (30) day period or portion thereof subsequent to October 1, 1983; but nothing contained herein

shall give purchaser the right to adjourn the closing past  
November 1, 1983.





# EXHIBIT A

The maker hereof shall, on the first day of any month and upon giving the holder hereof sixty (60) days' prior notice in writing, have the privilege of prepaying in full, or in multiples of at least Three Thousand and 00/100 (\$3,000.00) Dollars, in part, the indebtedness evidenced hereby by paying the then unpaid principal balance and all interest accrued thereon but without imposition of any prepayment fee or charge of any kind. In the event the maker hereof shall give to the holder hereof notice of intention to prepay as hereinabove provided, the entire principal balance together with accrued interest thereon, at the rates hereinbefore set forth, shall, at the option of the holder hereof, become due and payable on the date specified in such notice and if no date has been so specified in such notice, on the date that is sixty (60) days subsequent to the holder's receipt of such notice.

AND IT IS FURTHER AGREED that in the event that any payment agreed to be made hereunder shall become overdue for a period of ten (10) days, a late charge of five cents for each dollar so overdue shall be paid by the maker hereof for the purpose of defraying the expenses incident to handling such delinquent payments. Such "late charge", if not previously paid, shall be added to and become a part of the next succeeding monthly payment to be made hereunder.

All of the terms, provisions, conditions and covenants set forth in the Mortgage shall be incorporated herein to the same extent and, as if, fully set forth herein.

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All of the terms, provisions, conditions and covenants set forth in the Mortgage shall be incorporated herein to the same extent and, as if, fully set forth herein.

EXHIBIT A-1

17. The entire unpaid balance of the debt secured by this Mortgage shall be due and payable immediately at the option of the Mortgagee if any of the following events shall occur:

(a) If Mortgagor's interest in the Subject Premises shall be sold or otherwise transferred.

(b) If the Subject Premises shall be encumbered by a lien to secure debt other than the lien of this Mortgage.

(c) If Mortgagor shall fail to comply with any obligation under the Note secured by this Mortgage or with any provision of this Mortgage instrument.

(d) If Mortgagor shall suffer or cause violations to be placed or recorded against the premises and shall fail to effect their removal within sixty (60) days of receipt of notice from the appropriate authorities having jurisdiction of the imposition of such violations or, in the case of any rent impairing or hazardous violations, within such shorter period as may be specified by the authorities imposing such violations.

(e) If Mortgagor shall undertake any construction on the Subject Premises or add to, or alter, the improvements presently located on the Subject Premises or otherwise make any addition to, or alteration of the same, without first obtaining Mortgagee's prior written consent thereto; it being understood and agreed that Mortgagee may withhold such consent with or without justification, but if Mortgagee shall consent, such consent may, at Mortgagee's option, be conditioned upon Mortgagor's furnishing Mortgagee with such guarantee and/or evidence of Mortgagor's financial ability to complete such work as Mortgagee may require, including, but not limited to, furnishing Mortgagee with a payment and performance bond, each in an amount acceptable to Mortgagee and each issued by a surety acceptable to Mortgagee. Other than for the work referred to in paragraph 48 hereof, Mortgagee shall not unreasonably withhold its consent to the foregoing construction, as long as such work (i) is not of a structural nature, (ii) is of a nature that is integral to a retail sale operation, (iii) the cost therefor, in the aggregate, would not exceed the sum of Ten Thousand and 00/100 (\$10,000.00) Dollars, inclusive of all professional fees and permits and (iv) would increase the value of the Subject Premises by at least the cost expended.

(f) If Mortgagor does not fully complete any item of construction to the satisfaction of Mortgagee within six (6) months from the date such construction is first commenced.

(g) If Mortgagor shall undertake any construction on the Subject Premises without first

(a) If Mortgagor's interest in the Subject Premises shall be sold or otherwise transferred.

(b) If the Subject Premises shall be encumbered by a lien to secure debt other than the lien of this Mortgage.

(c) If Mortgagor shall fail to comply with any obligation under the Note secured by this Mortgage or with any provision of this Mortgage instrument.

(d) If Mortgagor shall suffer or cause violations to be placed or recorded against the premises and shall fail to effect their removal within sixty (60) days of receipt of notice from the appropriate authorities having jurisdiction of the imposition of such violations or, in the case of any rent impairing or hazardous violations, within such shorter period as may be specified by the authorities imposing such violations.

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(f) If Mortgagor does not fully complete any item of construction to the satisfaction of Mortgagee within six (6) months from the date such construction is first commenced.

(g) If Mortgagor shall undertake any construction on the Subject Premises without first obtaining all municipal or governmental approvals, consents or permits.

18. Mortgagor shall, in addition to and not in substitution of each monthly payment required hereunder or under the Note, pay to Mortgagee an amount which shall be equal to one-twelfth of the annual taxes and all assessments that shall become due during the year (all as estimated by Mortgagee

or its representative) which Mortgagee is hereby authorized to pay. In addition, at the request of Mortgagee, Mortgagor shall immediately pay to Mortgagee the amount, estimated by Mortgagee or its representative, necessary to establish the initial tax escrow deposit. If any of the aforesaid sums are found insufficient to pay the aforesaid taxes and impositions at least thirty (30) days prior to their due dates, Mortgagor agrees to pay such deficiency immediately upon demand of Mortgagee. Failure to pay any of the foregoing payments referred to in this paragraph shall be deemed a default under the terms of this Mortgage, for which the holder of this Mortgage may, at its option, declare the entire unpaid balance of principal and interest accrued thereon to be immediately due and payable. Mortgagee, at its option, may place the escrow deposit in an interest bearing account and all interest accrued thereon shall, unless and until required otherwise by law, belong to, and may be retained by, Mortgagee.

19. If there shall be a foreclosure of this Mortgage, the mortgaged premises may be sold in one parcel, any provision of law to the contrary notwithstanding. Failure to join tenants as defendants shall not constitute any defense to the action.

20. Neither the value of the mortgaged premises nor the lien of this Mortgage will be diminished or impaired in any way by an act or omission of the Mortgagor, and that the Mortgagor will not do or permit to be done to, in, upon or about said premises or any part thereof, anything that may in any way impair the value thereof, or weaken, diminish or impair the security of this Mortgage.

21. The holder of this Mortgage, in any action to foreclose it, shall be entitled to the appointment of a receiver as a matter of right without notice and without regard to the adequacy of the security and Mortgagor shall pay all receivership fees and expenses.

22. Any notice or demand may be served in person or by certified mail at the last known address of the party to be served and shall be deemed to have been given on the date it shall have been mailed.

23. Upon an assignment of this Mortgage, the Mortgagee shall have the right to pay over the balance of any escrow deposits in its possession to the assignee, and the Mortgagee shall thereupon be completely released from all liability with respect to such deposits and the Mortgagor or owner of the premises shall look solely to the assignee or transferee in the reference thereto. This provision shall apply to every transfer of deposits to a new assignee. Upon full payment of the mortgaged indebtedness or at any prior time at the election of the holder of this Mortgage, the balance of the deposits in its possession shall be paid over to the record owner of the premises, and no other party shall have any right or claim thereto in any event. In the event of assignment of this Mortgage, Mortgagee or its assignee shall notify Mortgagor of such assignment and advise Mortgagor of the balance of the escrow deposits, if any, which were turned over to assignee in connection with such assignment.

24. This Mortgage may not be waived, changed or discharged orally but only by an agreement in writing and signed by the party against whom enforcement of any waiver, change or discharge is sought. If there be more than one mortgagor, the covenants and warranties hereof shall be joint and several. The covenants of this mortgage shall run with the land and bind the Mortgagor, the heirs, distributees, legal representatives, successors and assigns of the Mortgagor and all subsequent owners, encumbrances, tenants and

referred to in this paragraph shall be deemed a default under the terms of this Mortgage, for which the holder of this Mortgage may, at its option, declare the entire unpaid balance of principal and interest accrued thereon to be immediately due and payable. Mortgagee, at its option, may place the escrow deposit in an interest bearing account and all interest accrued thereon shall, unless and until required otherwise by law, belong to, and may be retained by, Mortgagee.

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21. The holder of this Mortgage, in any action to foreclose it, shall be entitled to the appointment of a receiver as a matter of right without notice and without regard to the adequacy of the security and Mortgagor shall pay all receivership fees and expenses.

22. Any notice or demand may be served in person or by certified mail at the last known address of the party to be served and shall be deemed to have been given on the date it shall have been mailed.

23. Upon an assignment of this Mortgage, the Mortgagee shall have the right to pay over the balance of any escrow deposits in its possession to the assignee, and the Mortgagee shall thereupon be completely released from all liability with respect to such deposits and the Mortgagor or owner of the premises shall look solely to the assignee or transferee in the reference thereto. This provision shall apply to every transfer of deposits to a new assignee. Upon full payment of the mortgaged indebtedness or at any prior time at the election of the holder of this Mortgage, the balance of the deposits in its possession shall be paid over to the record owner of the premises, and no other party shall have any right or claim thereto in any event. In the event of assignment of this Mortgage, Mortgagee or its assignee shall notify Mortgagor of such assignment and advise Mortgagor of the balance of the escrow deposits, if any, which were turned over to assignee in connection with such assignment.

24. This Mortgage may not be waived, changed or discharged orally but only by an agreement in writing and signed by the party against whom enforcement of any waiver, change or discharge is sought. If there be more than one mortgagor, the covenants and warranties hereof shall be joint and several. The covenants of this mortgage shall run with the land and bind the Mortgagor, the heirs, distributees, legal representatives, successors and assigns of the Mortgagor and all subsequent owners, encumbrances, tenants and subtenants of the premises and shall inure to the benefit of the Mortgagee, the successors and assigns of the mortgagee and all subsequent holders of this Mortgage. As used herein, the singular shall include the plural as the context requires.

25. Should any agreement be hereafter entered into modifying or changing the terms or security of this Mortgage in any particular, then the rights of the parties to such agreement and such agreement shall be superior to the rights of the holder of any subsequent lien hereafter recorded or filed.

26. Mortgagor shall reimburse Mortgagee for any and all costs and expenses (including but not limited to reasonable attorneys' fees) which the Mortgagee may incur in connection with the enforcement and/or collection of this debt and/or any sums due or to become due by reason hereof, and Mortgagor hereby indemnifies and agrees to hold the Mortgagee harmless from and against all such costs and expenses.

27. This is a purchase money mortgage given to secure a portion of the purchase price for the premises.

28. The failure of the Mortgagee to insist upon strict performance by the Mortgagor of any of the terms, covenants and conditions of this Mortgage shall not be deemed a waiver thereof, and the Mortgage notwithstanding any such failure, shall have the right thereafter to insist upon strict performance by the Mortgagor of any such terms, covenants and conditions.

29. That if the Mortgagor consists of more than one (1) party, they shall be jointly and severally liable hereunder.

30. Mortgagor, as additional security for the payment of said indebtedness, hereby assigns, transfers and sets over to the Mortgagee all the rents, issues, income and profits now due and owing and which hereafter may become due and owing from said premises, and all the present and future leases of the premises, and grants the Mortgagee the right at any time after default under this Mortgage or the note hereby secured, to enter upon and take possession of the premises:

- (a) to collect said rents, issues, income and profits;
- (b) to let the premises and any part thereof for such term or terms and upon such conditions as the Mortgagee may deem proper;
- (c) to employ an agent to rent and manage the premises and collect the rents, issues, income and profits thereof;
- (d) to commence and prosecute summary proceedings for possession of the premises or any part thereof and proceedings or actions to collect the rents, issues, income and profits or the rental value of the premises or any part thereof;
- (e) to make all repairs, alterations or improvements to the premises or any part thereof as the Mortgagee may deem proper for the preservation and/or proper utilization of the Subject Premises;
- (f) to do all acts and things necessary or proper in connection with the management and operation of said premises;
- (g) to pay out of the monies collected, at the option of the Mortgagee, any accounts owing under conditional bills of sale or chattel mortgages covering fixtures



to hold the Mortgagee harmless from and against all such costs and expenses.

27. This is a purchase money mortgage given to secure a portion of the purchase price for the premises.

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- (e) to make all repairs, alterations or improvements to the premises or any part thereof as the Mortgagee may deem proper for the preservation and/or proper utilization of the Subject Premises;
- (f) to do all acts and things necessary or proper in connection with the management and operation of said premises;
- (g) to pay out of the monies collected, at the option of the Mortgagee, any accounts owing under conditional bills of sale or chattel mortgages covering fixtures or personal property contained in the premises, and any and all costs, charges and expenses of or in any way connected with any of the foregoing items or matters. The Mortgagee, after making such payments, shall apply any balance of the rents, issues, income and profits so collected on the indebtedness hereby secured, or on any taxes, assessments, water charges, insurance premiums or other items payable hereunder and account to the Mortgagor semi-annually for the surplus, if any.



Mortgagee hereby authorizes Mortgagor and any subsequent owner of the premises to collect and receive rents, issues, income and profits of the premises until default under the mortgage or said note, after expiration of the applicable grace or cure period, but such authority may be revoked forthwith by the Mortgagee without notice upon any such default. At the option of the Mortgagee, such entry and taking possession of the mortgaged premises shall be accomplished either by actual entry and possession or by written notice served personally upon or sent by registered mail to the owner of the mortgaged premises last appearing on the records of the Mortgagee. In the event that Mortgagor occupies said premises or any part thereof, Mortgagor shall surrender possession thereof to the Mortgagee immediately upon any such default. However, if the Mortgagor remains in possession of the premises or any part thereof after any such default, such possession shall be as tenant of Mortgagee, and the Mortgagor shall pay to the Mortgagee after any such default a reasonable monthly rental for the premises or any part thereof occupied by the Mortgagor, to be paid in advance on the first day of each calendar month, and in default of so doing, may be dispossessed by the usual summary proceedings. This covenant becomes effective whether foreclosure has been instituted or not, and without applying for a receiver.

31. Mortgagor shall forward to holder hereof within three (3) days of receipt, copies of any and all notices received by the Mortgagor from any municipal agency having jurisdiction over the Subject Premises.

32. Upon the occurrence of any event of default or any breach of this Mortgage by Mortgagor, whereby the due date of the debt secured hereby is provided to be accelerated, or in the event of the non-payment when due, of the debt (principal and/or interest) secured by this Mortgage or any installment thereof, or in the event Mortgagee is called upon to pay any sums of money to protect its interest in, or the lien of, this Mortgage and the Note, or to pay for fire insurance policy premiums that Mortgagor fails to obtain and pay for, then and in any of the foregoing events of default, or payments of money by Mortgagee, as herein provided, all moneys advanced or due hereunder either upon maturity or by reason of the defaults aforesaid, shall become due and payable, together with interest at the higher of the per annum rate of seventeen (17%) percent or the maximum rate permitted by law, computed from the date of such default, the date of maturity, or the date of such advance, as the case may be, to the date of the actual receipt of payment thereof by Mortgagee.

33. Mortgagor agrees for itself, its assignees and any future owner(s) of the Premises to perform all of the terms and conditions of this Mortgage.

34. Any funds held by Mortgagee as agent for Mortgagor or for interest paid in advance under this Mortgage and Note may be retained by or turned over to Mortgagee immediately upon default in this Mortgage, including but not limited to bankruptcy of Mortgagor or an assignment for the benefit of creditors, and shall be applied first by Mortgagee as a credit against any unpaid interest due under this Mortgage and the Note and then in reduction of principal then remaining unpaid under this Mortgage and the Note.

of the mortgaged premises shall be accomplished either by actual entry and possession or by written notice served personally upon or sent by registered mail to the owner of the mortgaged premises last appearing on the records of the Mortgagee. In the event that Mortgagor occupies said premises or any part thereof, Mortgagor shall surrender possession thereof to the Mortgagee immediately upon any such default. However, if the Mortgagor remains in possession of the premises or any part thereof after any such default, such possession shall be as tenant of Mortgagee, and the Mortgagor shall pay to the Mortgagee after any such default a reasonable monthly rental for the premises or any part thereof occupied by the Mortgagor, to be paid in advance on the first day of each calendar month, and in default of so doing, may be dispossessed by the usual summary proceedings. This covenant becomes effective whether foreclosure has been instituted or not, and without applying for a receiver.

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35. The interest provided for in this Mortgage shall not exceed the maximum allowable interest permitted to be charged under applicable law, as the same apply to the Premises and any money paid under the Note or this Mortgage in excess of the maximum allowable interest shall be applied to a reduction of this principal balance secured hereby.

36. Notwithstanding anything to the contrary contained in Section 254, or any other Section, of the Real Property Law of the State of New York, all awards heretofore and hereafter made to Mortgagor for taking by eminent domain of the whole or any part of the Premises or any easement therein, including any awards for changes of grade of street, or the proceeds of any insurance for a casualty to the Premises (collectively referred to as an "Award"), are hereby assigned to Mortgagee, who is hereby authorized to collect and receive the Award. Mortgagee shall have the option to apply such funds to a restoration of the Premises and to give proper receipts and acquittances therefor, or, at Mortgagee's option, to apply the same toward the payment of the Mortgage debt, notwithstanding the fact that the amount owing thereon may not then be due and payable; and Mortgagor hereby agrees, upon request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning the Award to Mortgagee free, clear and discharged of any encumbrances of any kind or nature whatsoever. Any excess after payment of the outstanding principal indebtedness secured hereby and interest thereon, shall be paid over to Mortgagor. Notwithstanding anything contained to the contrary, in the event of a damage or destruction and the cost or repair for which would not exceed Five Thousand and 00/100 (\$5,000.00) Dollars, in the aggregate, upon Mortgagor's furnishing Mortgagee with a statement certified to by an architect or other engineer satisfactory to Mortgagee that the premises have been fully restored and repaired and certifying as to the actual amount expended in such restoration (accompanied by evidence that the bills therefor have been paid in full by Mortgagor), Mortgagee shall release (from the Award therefor actually collected and received by Mortgagee) an amount equal to the cost of such restoration up to the sum of Five Thousand and 00/100 (\$5,000.00) Dollars (but not in excess of the Award therefor actually collected and received by Mortgagee) to reimburse Mortgagor for the cost of such restoration.

37. All references in this instrument to Mortgagee shall be deemed to mean and refer to the present or any future holder of this Mortgage and the Note.

38. In the event that any one or more of the provisions contained in this Mortgage shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Mortgagee, not affect any other provision of this Mortgage, but this Mortgage shall be construed as though such invalid, illegal or unenforceable provision had never been contained herein.

39. In all references herein to any parties, persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require.

#### 40. Notices.

All notices required or permitted to be given hereunder shall be in writing and sent by registered mail or certified mail, addressed as follows:

If to Mortgagee: Fred Colin  
500 Old Country Road  
Garden City, New York 11530

with a copy to: Proskauer Rose Goetz & Mendelsohn  
Attention: Stuart M. Cohen, Esq.  
500 Old Country Road  
Garden City, New York 11530

If to Mortgagor:

to Mortgagee, who is hereby authorized to collect and receive the Award. Mortgagee shall have the option to apply such funds to a restoration of the Premises and to give proper receipts and acquittances therefor, or, at Mortgagee's option, to apply the same toward the payment of the Mortgage debt, notwithstanding the fact that the amount owing thereon may not then be due and payable; and Mortgagor hereby agrees, upon request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning the Award to Mortgagee free, clear and discharged of any encumbrances of any kind or nature whatsoever. Any excess after payment of the outstanding principal indebtedness secured hereby and interest thereon, shall be paid over to Mortgagor. Notwithstanding anything contained to the contrary, in the event of a damage or destruction and the cost or repair for which would not exceed Five Thousand and 00/100 (\$5,000.00) Dollars, in the aggregate, upon Mortgagor's furnishing Mortgagee with a statement certified to by an architect or other engineer satisfactory to Mortgagee that the premises have been fully restored and repaired and certifying as to the actual amount expended in such restoration (accompanied by evidence that the bills therefor have been paid in full by Mortgagor), Mortgagee shall release (from the Award therefor actually collected and received by Mortgagee) an amount equal to the cost of such restoration up to the sum of Five Thousand and 00/100 (\$5,000.00) Dollars (but not in excess of the Award therefor actually collected and received by Mortgagee) to reimburse Mortgagor for the cost of such restoration.

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Attention: Stuart M. Cohen, Esq.  
500 Old Country Road  
Garden City, New York 11530

If to Mortgagor:

or to such other person or address as the party to be charged with such notice may designate by notice given in the aforesaid manner.

41. The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective successors and assigns of the parties hereto.

42. Upon receipt of any notice, the owners of the Mortgaged Premises shall forthwith transmit a copy of such notice to the holder of this Mortgage.

43. The term "mortgage" or "Mortgage", when referring to this instrument, shall mean this instrument. The term "note" or "Note", when referring to the instrument that this Mortgage secures, shall mean such instrument. The terms "mortgaged premises", "Premises" or "Subject Premises", when referring to the premises encumbered by this Mortgage, shall mean the premises secured hereby and described herein. The term "mortgagor" or "Mortgagor", when referring to the then owner of the Premises, shall mean such owner and each of said terms may, as used herein, be used interchangeably and shall each have the same meaning. The term "mortgagee" or "Mortgagee", when referring to the then owner of this Mortgage, shall mean such holder and each of said terms may, as used herein, be used interchangeably and shall each have the same meaning.

44. In the event of any inconsistency between the terms and conditions contained in the printed form of this Mortgage with the terms and conditions contained in the typed provisions of this Mortgage, the terms and conditions of the typed provisions shall govern and control.

45. All of the terms, covenants, provisions and conditions contained in the Note are hereby incorporated herein to the same extent, and as if, such terms had been repeated herein.

46. Mortgagor hereby covenants to complete, no later than the date that is twelve (12) months subsequent to the date of delivery of this Mortgage, an addition to the building presently located on the Subject Premises; it being understood and agreed that the certifiable costs of such construction must be at least Ten Thousand and 00/100 (\$10,000.00) Dollars and evidence of such cost, satisfactory to Mortgagee, shall, within three (3) days of request by Mortgagee, be furnished to Mortgagee by Mortgagor. Simultaneously with the delivery of this Mortgage, Mortgagor has deposited Ten Thousand and 00/100 (\$10,000.00) Dollars with her attorney to be held by such attorney in escrow until he receives a written request from Mortgagee that such deposit be paid to (i) Mortgagee, in the event Mortgagor shall be in default under this Mortgage or the Note secured hereby past the grace periods provided for herein (and Mortgagee agrees to apply the same first toward payment of any interest then outstanding and then to a reduction of the principal indebtedness) or (ii) Mortgagor, in the event that Mortgagee shall, within the foregoing period of twelve (12) months, have fully complied with this Covenant No. 46. In the event that the escrow holder shall not receive any instructions from the Mortgagee by a date that is fourteen (14) months subsequent to the date of execution of this Mortgage, then such holder may pay the deposit over to Mortgagor. The escrow holder shall not disburse the monies except as provided above and in the escrow agreement executed by Mortgagor, Mortgagee and Mortgagor's attorney. Any failure by Mortgagee to deposit the sum of Ten Thousand and 00/100 (\$10,000.00) Dollars with her attorney as provided above and/or refusal of her attorney

43. The term "mortgage" or "Mortgage", when referring to this instrument, shall mean this instrument. The term "note" or "Note", when referring to the instrument that this Mortgage secures, shall mean such instrument. The terms "mortgaged premises", "Premises" or "Subject Premises", when referring to the premises encumbered by this Mortgage, shall mean the premises secured hereby and described herein. The term "mortgagor" or "Mortgagor", when referring to the then owner of the Premises, shall mean such owner and each of said terms may, as used herein, be used interchangeably and shall each have the same meaning. The term "mortgagee" or "Mortgagee", when referring to the then owner of this Mortgage, shall mean such holder and each of said terms may, as used herein, be used interchangeably and shall each have the same meaning.

44. In the event of any inconsistency between the terms and conditions contained in the printed form of this Mortgage with the terms and conditions contained in the typed provisions of this Mortgage, the terms and conditions of the typed provisions shall govern and control.

45. All of the terms, covenants, provisions and conditions contained in the Note are hereby incorporated herein to the same extent, and as if, such terms had been repeated herein.

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the option of Mortgagee, Mortgagor shall pay to Mortgagee a principal payment in the amount of Ten Thousand and 00/100 (\$10,000.00) Dollars. Such payment shall be made by Mortgagor within three (3) days of Mortgagee's written demand therefor and shall be applied by Mortgagee to a reduction of the principal indebtedness secured hereby in the inverse order of the payments of principal required hereunder or under the Note, but such payment and application shall not relieve Mortgagor from payment of the monthly installments of principal and interest required hereunder or under the Note.

47. Mortgagee agrees to give Mortgagor ten (10) days' notice of any default by Mortgagor under the Mortgage and/or the Note secured hereby other than for default in any payment due under the Mortgage or the Note secured hereby; it being understood and agreed that no such notice shall be required for any default in any monetary obligation or payment required under the Mortgage or the Note secured thereby.

but such payment and application shall not relieve Mortgagor from payment of the monthly installments of principal and interest required hereunder or under the Note.

47. Mortgagee agrees to give Mortgagor ten (10) days' notice of any default by Mortgagor under the Mortgage and/or the Note secured hereby other than for default in any payment due under the Mortgage or the Note secured hereby; it being understood and agreed that no such notice shall be required for any default in any monetary obligation or payment required under the Mortgage or the Note secured thereby.



11. If the closing of the title shall occur before the tax rate is fixed, the apportionment of taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation.

12. If there be a water meter on the premises, the seller shall furnish a reading to a date not more than thirty days prior to the time herein set for closing title, and the unfixed meter charge and the unfixed sewer rent, if any, based thereon for the intervening time shall be apportioned on the basis of such last reading.

13. The deed shall be the usual bargain and sale without covenant.

deed in proper statutory short form for record and shall be duly executed and acknowledged so as to convey to the purchaser the fee simple of the said premises, free of all encumbrances, except as herein stated, and shall contain the covenant required by subdivision 5 of Section 13 of the Lien Law.

If the seller is a corporation, it will deliver to the purchaser at the time of the delivery of the deed hereunder a resolution of its Board of Directors authorizing the sale and delivery of the deed, and a certificate by the Secretary or Assistant Secretary of the corporation certifying such resolution and setting forth facts showing that the conveyance is in conformity with the requirements of Section 909 of the Business Corporation Law. The deed in such case shall contain a recital sufficient to establish compliance with said section.

14. At the closing of the title the seller shall deliver to the purchaser a certified check to the order of the recording officer of the county in which the deed is to be recorded for the amount of the documentary stamps to be affixed thereto in accordance with Article 31 of the Tax Law, and a certified check to the order of the appropriate officer for any other tax payable by reason of the delivery of the deed, and a return, if any be required, duly signed and sworn to by the seller; and the purchaser also agrees to sign and swear to the return and to cause the check and the return to be delivered to the appropriate officer promptly after the closing of title.

15. In addition, the seller shall at the same time deliver to the purchaser a certified check to the order of the Finance Administrator for the amount of the Real Property Transfer Tax imposed by Title II of Chapter 46 of the Administrative Code of the City of New York and will also deliver to the purchaser the return required by the said statute and the regulations issued pursuant to the authority thereof, duly signed and sworn to by the seller; the purchaser agrees to sign and swear to the return and to cause the check and the return to be delivered to the City Register promptly after the closing of the title.

16. The seller shall give and the purchaser shall accept a title such as a reputable title company, a Member of the New York Board of Title Underwriters, will be willing to approve and insure.

17. All sums paid on account of this contract, and the reasonable expenses of the examination of the title to said premises and of the survey, if any, made in connection therewith are hereby made liens on said premises, but such liens shall not continue after default by the purchaser under this contract. ~~18. No fixture or article of personal property is~~ included herein other than the interior lighting fixtures presently located on the subject Premises.

~~18.~~ Purchaser agrees to accept the foregoing items in such condition as they may be in as of the date of the delivery of the deed hereunder.

19. The amount of any unpaid taxes, assessments, water charges and sewer rents which the seller is obligated to pay and discharge, with the interest and penalties thereon to a date not less than two business days after the date of closing title, may at the option of the seller be allowed to the purchaser out of the balance of the purchase price, provided official bills therefor with interest and penalties thereon figured to said date are furnished by the seller at the closing.

20. If at the date of closing there may be any other liens or encumbrances which the seller is obligated to pay and discharge, the seller may use any portion of the balance of the purchase price to satisfy the same, provided the seller shall simultaneously either deliver to the purchaser at the closing of title instruments in recordable form and sufficient to satisfy such liens and encumbrances of record together with the cost of recording or filing said instruments; or, provided that the seller has made arrangements with the title company employed by the purchaser in advance of closing, seller will deposit with said company sufficient monies, acceptable to and required by it to insure obtaining and the recording of such satisfactions and the issuance of title insurance to the purchaser either free of any such liens and encumbrances, or with insurance against enforcement of same out of the insured premises. The purchaser, if request is made within a reasonable time prior to the date of closing of title, agrees to provide at the closing separate certified checks as requested, aggregating the amount of the balance of the purchase price, to facilitate the satisfaction of any such liens or encumbrances. The existence of any such taxes or other liens and encumbrances shall not be deemed objections to title if the seller shall comply with the foregoing requirements.

21. If a search of the title discloses judgments, bankruptcies or other returns against other persons having names the same as or similar to that of the seller, the seller will on request deliver to the purchaser an affidavit showing that such judgments, bankruptcies or other returns are not against the seller.

22. In the event that the seller is unable to convey title in accordance with the terms of this contract, the sole liability of the seller will be to refund to the purchaser the amount paid on account of the purchase price and to pay the net cost of examining the title, which cost is not to exceed the charges fixed by the New York Board of Title Underwriters, and the net cost of any survey made in connection therewith incurred by the purchaser, and upon such refund and payment being made this contract shall be considered canceled.

23. The deed shall be delivered upon the receipt of said payments at the office of Proskauer Rose Goetz & Mendelsohn, 500 Old Country Road, Garden City, New York 11530, at 10:00 o'clock contemporaneous with the cancellation of the Texaco Lease (as such term is hereinafter defined) tentatively contemplated to be on or about October 1, 1983, or such other date as the parties may agree upon in writing.

~~24. The parties agree that~~ ~~brought about this sale and the seller agrees to pay any commission earned thereby.~~ ~~is the broker who~~

25. It is understood and agreed that all understandings and agreements heretofore had between the parties hereto are merged in this contract, which alone fully and completely expresses their agreement, and that the same is entered into after full investigation, neither party relying upon any statement or representation, not embodied in this contract, made by the other. The purchaser has inspected the buildings standing on said premises and is thoroughly acquainted with their condition.

Omit  
Clause 15 if  
the property  
is not in  
the City of  
New York.

of the corporation certifying such resolution and setting forth facts showing that the conveyance is in conformity with the requirements of Section 909 of the Business Corporation Law. The deed in such case shall contain a recital sufficient to establish compliance with said section.

14. At the closing of the title the seller shall deliver to the purchaser a certified check to the order of the recording officer of the county in which the deed is to be recorded for the amount of the documentary stamps to be affixed thereto in accordance with Article 31 of the Tax Law, and a certified check to the order of the appropriate officer for any other tax payable by reason of the delivery of the deed, and a return, if any be required, duly signed and sworn to by the seller; and the purchaser also agrees to sign and swear to the return and to cause the check and the return to be delivered to the appropriate officer promptly after the closing of title.

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the City of  
New York.

15. In addition, the seller shall at the same time deliver to the purchaser a certified check to the order of the Finance Administrator for the amount of the Real Property Transfer Tax imposed by Title II of Chapter 46 of the Administrative Code of the City of New York and will also deliver to the purchaser the return required by the said statute and the regulations issued pursuant to the authority thereof, duly signed and sworn to by the seller; the purchaser agrees to sign and swear to the return and to cause the check and the return to be delivered to the City Register promptly after the closing of the title.

16. The seller shall give and the purchaser shall accept a title such as a reputable title company, a Member of the New York Board of Title Underwriters, will be willing to approve and insure.

17. All sums paid on account of this contract, and the reasonable expenses of the examination of the title to said premises and of the survey, if any, made in connection therewith are hereby made liens on said premises, but such liens shall not continue after default by the purchaser under this contract. ~~18.~~ No fixture or article of personal property is included herein other than the interior lighting fixtures presently located on the subject Premises.

~~18.~~ Purchaser agrees to accept the foregoing items in such condition as they may be in as of the date of the delivery of the deed hereunder.

19. The amount of any unpaid taxes, assessments, water charges and sewer rents which the seller is obligated to pay and discharge, with the interest and penalties thereon to a date not less than two business days after the date of closing title, may at the option of the seller be allowed to the purchaser out of the balance of the purchase price, provided official bills therefor with interest and penalties thereon figured to said date are furnished by the seller at the closing.

20. If at the date of closing there may be any other liens or encumbrances which the seller is obligated to pay and discharge, the seller may use any portion of the balance of the purchase price to satisfy the same, provided the seller shall simultaneously either deliver to the purchaser at the closing of title instruments in recordable form and sufficient to satisfy such liens and encumbrances of record together with the cost of recording or filing said instruments; or, provided that the seller has made arrangements with the title company employed by the purchaser in advance of closing, seller will deposit with said company sufficient monies, acceptable to and required by it to insure obtaining and the recording of such satisfactions and the issuance of title insurance to the purchaser either free of any such liens and encumbrances, or with insurance against enforcement of same out of the insured premises. The purchaser, if request is made within a reasonable time prior to the date of closing of title, agrees to provide at the closing separate certified checks as requested, aggregating the amount of the balance of the purchase price, to facilitate the satisfaction of any such liens or encumbrances. The existence of any such taxes or other liens and encumbrances shall not be deemed objections to title if the seller shall comply with the foregoing requirements.

21. If a search of the title discloses judgments, bankruptcies or other returns against other persons having names the same as or similar to that of the seller, the seller will on request deliver to the purchaser an affidavit showing that such judgments, bankruptcies or other returns are not against the seller.

22. In the event that the seller is unable to convey title in accordance with the terms of this contract, the sole liability of the seller will be to refund to the purchaser the amount paid on account of the purchase price and to pay the net cost of examining the title, which cost is not to exceed the charges fixed by the New York Board of Title Underwriters, and the net cost of any survey made in connection therewith incurred by the purchaser, and upon such refund and payment being made this contract shall be considered canceled.

23. The deed shall be delivered upon the receipt of said payments at the office of Proskauer Rose Goetz & Mendelsohn, 500 Old Country Road, Garden City, New York 11530, at 10:00 o'clock contemporaneous with the cancellation of the Texaco Lease (as such term is hereinafter defined) tentatively contemplated to be on or about October 1, 1983, or such other date as the parties may agree upon in writing.

~~24. The parties agree that \_\_\_\_\_ is the broker who brought about this sale and the seller agrees to pay any commission earned thereby.~~

25. It is understood and agreed that all understandings and agreements heretofore had between the parties hereto are merged in this contract, which alone fully and completely expresses their agreement, and that the same is entered into after full investigation, neither party relying upon any statement or representation, not embodied in this contract, made by the other. The purchaser has inspected the buildings standing on said premises and is thoroughly acquainted with their condition and agrees to take title "as is" and in their present condition and subject to reasonable use, wear, tear, and natural deterioration between the date thereof and the closing of title.

26. This agreement may not be changed or terminated orally. The stipulations aforesaid are to apply to and bind the heirs, executors, administrators, successors and assigns of the respective parties.

27. If two or more persons constitute either the seller or the purchaser, the word "seller" or the word "purchaser" shall be construed as if it read "sellers" or "purchasers" whenever the sense of this agreement so requires.

IN WITNESS WHEREOF, this agreement has been duly executed by the parties hereto.

In presence of:

FRED COLIN, as Trustee under Indenture of  
Trust dated May 1, 1968 for the benefit  
of Stephen Colin

  
ELIZABETH M. PIEROTTI



